

PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/EP2004/050476

International filing date (day/month/year)
07.04.2004

Priority date (day/month/year)

International Patent Classification (IPC) or both national classification and IPC
B01L3/00

Applicant
AGILENT TECHNOLOGIES, INC.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☒ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☒ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/EP2004/050476

10/589319

AP20 Rec'd PCT/PTO 14 AUG 2006

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

Box No. II Priority

1. ☒ The following document has not been furnished:

☒ copy of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(a)).

☐ translation of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. ☐ It has not been possible to consider the validity of the priority claim because a copy of the priority document was not available to the ISA at the time that the search was conducted (Rule 17.1). This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

4. Additional observations, if necessary:

Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non obvious), or to be industrially applicable have not been examined in respect of:

☐ the entire international application,

☒ claims Nos. 19, 20, 28

because:

☐ the said international application, or the said claims Nos. relate to the following subject matter which does not require an international preliminary examination (*specify*):

☐ the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):

☐ the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.

☒ no international search report has been established for the whole application or for said claims Nos. 19, 20, 28

☐ the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:

the written form

☐ has not been furnished

☐ does not comply with the standard

the computer readable form

☐ has not been furnished

☐ does not comply with the standard

☐ the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions.

☐ See separate sheet for further details

Box No. IV Lack of unity of invention

1. ☒ In response to the invitation (Form PCT/ISA/206) to pay additional fees, the applicant has:
- ☐ paid additional fees.
 - ☐ paid additional fees under protest.
 - ☒ not paid additional fees.
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is
- ☐ complied with
 - ☒ not complied with for the following reasons:
see separate sheet
4. Consequently, this report has been established in respect of the following parts of the international application:
- ☐ all parts.
 - ☒ the parts relating to claims Nos. 1-19,21-26

Box No. V Reasoned statement under Rule 43b/s.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	5,7,8,15,16,18,21,22
	No: Claims	1-4,6,9,10-14,17,23-26
Inventive step (IS)	Yes: Claims	8
	No: Claims	1-7,9-18,21-26
Industrial applicability (IA)	Yes: Claims	1-18,21-26
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Re Item III.

1. No opinion concerning novelty and inventive step of claims 19, 20 and 28 are given because no search report covering these claims has been drafted.

Re Item IV.

2. There is a lack of unity a priori between independent claims 1 and 28.

The only common feature between independent claims 1 and 28 is a cover with a reclosable aperture.

This feature is known e.g. from the EP 0 836 884 (=D1) and thus it cannot be considered as a special technical feature. Therefore, independent claims 1 and 28 do not share any common special technical features according to Rule 30 EPC.

- 2.1 The only common features between dependent claims 2 - 26 are the features of independent claim 1.

Prior art document D1 discloses all features of independent claim 1 (see Fig. 2, and col. 3, line 53 - col. 5, line 31):

Cover for sealing a container comprising:

- at least one bottom layer (2) and at least one top layer (3) arranged over said bottom layer (2);
- the bottom and second layer (2, 3) structured to form a recloseable aperture of the cover.

- 2.1.1 All these features are equally known from the prior art document DE-U-87 16 420 (see in particular Fig. 1 and page 2, lines 9 - 21), US-A-2003/0168501 (see in particular Fig. 1 and 2), US-A-6 037 168 (see in particular Fig. 7 and 8, and col. 16, line 16 - col. 17, line 42), US-A-2003/0052126 (see Fig. 1, and page 2, par. 22 - 25) and WO-A-00/64755 (see in particular Fig. 17 and page 3, lines 5 - 9).

- 2.2 Thus, dependent claims 2 - 26 do not share any common special technical features according to Rule 30 EPC.

2.3 The following groups of inventions, the problems they solve and the features which solve these problems can therefore be identified:

- Invention 1) Claims 1 - 18, and 21 - 26 provides a cover which can be used several times because of a recloseable aperture.
- Invention 2) Claims 19 and 20 strengthen the cover by having a cover wherein the top layer comprises a coating layer.
- Invention 3) Claim 28 defines a method for storing liquid such that the liquid can be retrieved from or the store can be filled easily wherein the store is a well-plate.

Since the problems and solutions of these three inventions or groups of inventions differ from each other the different features solving these problems cannot be considered as corresponding technical features and the inventions do not share any same special technical features. Thus, there is a lack of unity and the application does not meet the requirements of Article 82 EPC.

Re Item V.

3. The following documents are referred to in this communication:

- D1 : EP 0 836 884 A (BOEHRINGER MANNHEIM GMBH) 22 April 1998
D2 : DE 87 16 420 U (KLOCKE VERPACKUNGS-SERVICE GMBH) 3 March 1988
D3 : US 2003/168501 A1 (HENGAMI DAVID TODJAR) 11 September 2003
D4 : US 6 037 168 A (BROWN JAMES F) 14 March 2000
D5 : US 2003/052126 A1 (DIMIERI WILLIAM L ET AL) 20 March 2003
D6: WO 00/64755 A (SORRENTINO GIOVAMBATTISTA ; CONVERTING WET WIPES S R L (IT)) 2 November 2000

4. INDEPENDENT CLAIM 1

4.1 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT. Each of the documents D1 - D6 discloses all features of claim 1 (see Item IV, 2.1 and 2.1.1).

5. DEPENDENT CLAIMS 2-7, 9-18, 21-26

Dependent claims 2-7, 9-18 and 21-26 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT).

6. DEPENDENT CLAIM 8

The combination of the features of dependent claim 8 (i.e. features of claims 1, 7 and 8) are neither known from, nor rendered obvious by, the available prior art.

The subject-matter of claim 8 defines a structure for a butterfly valve which improves the sealing of the valve.

Re Item VII.

7. Independent claim 1 is not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art (document D1) being placed in the preamble (Rule 6.3(b)(I) PCT) and with the remaining features being included in the characterising part (Rule 6.3(b)(ii) PCT).
8. Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1 and D2 is not mentioned in the description, nor are these documents identified therein.

Further, a document reflecting the prior art described on page 1 of the description, is not identified in the description (Rule 5.1(a)(ii) PCT).

Re Item VIII.

9. The application does not meet the requirements of Article 6 PCT.
- 9.1 Claims 13 - 16 refer back to any preceding claims. These claims comprise the feature "a third layer" which is defined for the first time in claim 12. Therefore, said claims should not refer back to any claims before claim 12.

- 9.2 Claim 2 refers back to "claim 1 or any one of the above claims". There is however, no other claims than claim 1 before claim 2.
- 9.3 Claims 23 - 26 comprise a feature "a well plate". The present wording can be understood so that said well plate would be a part of the invention as claimed. The claims are though related to a cover and not to a well plate. The cover can be suitable for a use with a well plate but the well plate and its additional features do not limit the scope of said claims.